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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,729	12/11/2000	Katsuei Tanabe	2000-1686A	2321

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EXAMINER

MEREK, JOSEPH C

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/732,729

Applicant(s)

TANABE ET AL.

Examiner

Joseph C. Merek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/23/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/23/04 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim26- are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claim 26, it has not been adequately disclosed that the flange includes the claimed first portion. The first portion appears to be part of the sidewall of the container. It has not been adequately disclosed that the second portion extending "generally radially direction". The second portion extends

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radially. The "generally" allows for variations that are not disclosed. This is a new matter rejection.

Drawings

The proposed drawing correction of Figs. 4 and 5 has been disapproved since it brings new matter into the disclosure. There is not support for the flange including the first portion.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "the protrusion is a continuous ring" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Since the proposed drawing correction (Fig. 7) has not been entered, the drawing objection has been maintained.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The amendment filed 2/23/04 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material

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which is not supported by the original disclosure is as follows: there is no support for the flange including the first portion. The first portion appears to be part of the container sidewall. Moreover, the flange extends from the open end, which would be the top of what applicant is calling the first portion. Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 26-39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claim 26, it has not been adequately disclosed that the container body cannot be supported in an upright position by said rounded distal end when said rounded distal end is placed on a support surface. The specification does not discuss or describe this function. The remaining claims are included since they stem from rejected claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26-31, 32-39, 40, 41, 44, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zeman in view of Hicks (US 6,024,244) and further in view of Miller (US 3,420,397). Regarding claim 26, Zeman does not teach the rounded distal end, Hicks teaches a similar container with a supplemental support member with a rounded distal end. It would have been obvious to employ the rounded distal end of Hicks in the container of Zeman to prevent accidental drowning when the container is not in use as taught by Hicks. The modified container of Zeman does not teach the claimed first and second portions. Miller as seen in Figs. 1-6 teaches a similar container where the flange has the claimed portions. It would have been obvious to employ the first and second portions of Miller in the modified container of Zeman to provide for easy separation of nested containers. Regarding claim 27, the modified container of Zeman does not teach the lid for hermetically sealing the container. Miller teaches a lid for a container similar to Zeman. It would have been obvious to employ the lid of Miller in the modified container of Zeman to protect the contents. Regarding claim 28, see Fig. 1 of Zeman, where the container is held off the support surface. Regarding claim 29, see Fig. 1 of Zeman where the at least one protrusion is located

between an axial central portion and the first end, i.e. the rounded distal end.

Regarding claim 30, the protrusion is a continuous ring. Regarding claim 31, see Zeman, Col. 2, lines 41-45, where the ring can be discontinuous. Regarding claims 32, 36, and 38, see Fig. 1 of Zeman where the container is held off the support surface. Regarding claims 33 and 37, see Fig. 1 of Zeman where the at least one protrusion is located between an axial central portion and the first end, i.e. the rounded distal end. Regarding claims 34 and 39, the protrusion is a continuous ring. Regarding claim 35, see Col. 2, see Zeman, lines 41-45, where the ring can be discontinuous. Regarding claims 40 and 41, see Fig. 4 of Miller where the modified container of Zeman has a third portion that is 36. Regarding claim 44 and 45, the modified container of Zeman is held off the support surface.

Claims 26-31, 32-39, 40, 41, 44, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zimmer (US 4,865,199) in view of Zeman (US 3,371,819) and further in view of Amberg (2,672,742) and Miller (US 3,420,397). Zimmer does not teach the at least one protrusion. Zeman teaches a similar container with a protrusion for securing the base to the container. It would have been obvious to employ the protrusion of Zeman in the cup of Zimmer to provide an alternative means for securing the cup on the container. Moreover, it would have been obvious to employ the protrusion of Zeman in the cup of Zimmer to removably attach the base to the container as taught by Zeman. To the degree that the modified container Zimmer does not teach the rounded distal end, Amberg as seen in Figs. 1-6, teaches a container in a support

with a rounded distal end. It would have been obvious to employ the rounded distal end Amberg in the modified container of Zimmer to make it easier to stir the contents as taught by Amberg. The modified container of Zimmer does not teach the claimed first and second portions. Shapiro et al as seen in Fig. 10 teaches a similar container where the flange has the claimed portions. It would have been obvious to employ the first and second portions of Shapiro et al in the modified container of Zeman to provide for easy separation of nested containers. Regarding claims 32, 36, and 38, the modified container of Zimmer does not teach the container being held off the support surface. Zeman teaches that the container can be held off the support surface. It would have been obvious to employ this structure in the modified container of Zimmer to prevent condensation on the support surface or to provide an alternative way to support the container. Regarding claims 33 and 37, see Fig. 1 of Zeman where the at least one protrusion is located between an axial central portion and the first end, i.e. the rounded distal end. Regarding claims 34 and 39, the protrusion is a continuous ring. Regarding claim 35, see Col. 2, lines 41-45, where the ring can be discontinuous. Regarding claim 27, the modified container of Zimmer does not teach the lid for hermetically sealing the container body. Miller teaches a lid for a container similar to Zimmer. It would have been obvious to employ the lid of Miller in the modified container of Zimmer to protect the contents. See Fitzgerald where the lid fits within the first portions and the second portions. Regarding claim 28, the modified container of Zimmer does not teach the container being held off the support surface. Zeman teaches that the container can be held off the support surface. It would have been obvious to employ this structure in the

modified container of Zimmer to prevent condensation on the support surface or to provide an alternative way to support the container. Regarding claim 29, see Fig. 1 of Zeman where the at least one protrusion is located between an axial central portion and the first end, i.e. the rounded distal end. Regarding claim 30, the protrusion is a continuous ring. Regarding claim 31, see Col. 2, lines 41-45, where the ring can be discontinuous. Regarding claims 40 and 41, see Fig. 4 of Miller where the modified container of Zimmer has a third portion that is 36. Regarding claims 44 and 45, the modified container of Zimmer is held off the support surface.

Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zeman in view of Hicks (US 6,024,244) and further in view of Miller (US 3,420,397) and further in view of Shapiro et al (US 3,288,340). Regarding claim 42, the modified container of Zeman does not teach the tapering grooves in the sidewall. Shapiro et al as seen in Figs. 1 and 2, teach a similar container with tapering grooves. It would have been obvious to employ the grooves of Shapiro et al in the modified container of Zeman for decorative purposes as taught by Shapiro et al. The tapering grooves are the portions between items 30. They are each grooves with respect to each other. Regarding claim 43, the modified container of Zeman is held off the support surface.

Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zimmer (US 4,865,199) in view of Zeman (US 3,371,819) and further in view of Amberg (2,672,742), Miller (US 3,420,397), and Shapiro et al (US 3,288,340). Regarding claim 42, the modified container of Zimmer does not teach the tapering grooves in the sidewall. Shapiro et al as seen in Figs. 1 and 2, teach a similar container

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with tapering grooves. It would have been obvious to employ the grooves of Shapiro et al in the modified container of Zimmer for decorative purposes as taught by Shapiro et al. The tapering grooves are the portions between items 30. They are each grooves with respect to each other. Regarding claim 43, the modified container of Zeman is held off the support surface.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Palisin, Jr. and Gunn are cited for teaching containers with grooves in the sidewall.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph C. Merek
Patent Examiner
May 14, 2004